

**BOARD OF SELECTMEN**  
Minutes of September 17, 2007

The Chairman McArdle called the meeting to order at 7:30PM. Board members present in addition to John McArdle were Richard Gandt, Steve Clark, and Dick Carlson. Boyd Jackson was absent. Of the Selectmen's staff, Town Administrator Virginia Wilder, & Board Secretary, Donna Rich, were in attendance. Other persons present were Jane Schraffa and Evleyn Hammond of the Topsfield Cable. Also present were Faye Raynard of the Village Reporter, Bob & Cathy Morgan, Paul Stump, Becky Stump, Ralph Stump, Mike De'Amario of the Coalition for Children's Safety and Serious Concerns Regarding the Proposed Topsfield Rail Trails Project, Greg Krom, Superintendent of Water Department, Phil Knowles, Chairman, Water Commissioners, Karen Dow, Chairman, School Committee, Luigi Costanza, Call Fire Fighter, Ken Horgan, Bob Varney, Topsfield Sign Shop, Joe Bochetti, son/co-owner 414 Boston St.

**Announcements:** Comcast viewers were not able to view the live telecast due to technical difficulties. Therefore, this meeting would be televised the following Monday, September 24, 2007 at 7:30PM. McArdle announced that the Board would go into executive session at the end of the meeting to discuss Town v. Bernstein lawsuit, Fire Chief Contract, the Police union contract and the Dispatcher's union contract and would not return to open session.

**Selectmen Minutes:** Selectman Carlson made the motion to accept the minutes as written of September 4, 2007; seconded by Selectman Clark; so voted 4-0. Selectman Gandt made the motion to accept the minutes as amended of the Executive Session; seconded by Selectman Clark, so voted 4-0.

**CITIZEN QUESTIONS & COMMENTS:** Bob Morgan, member of Coalition for Children's Safety and Serious Concerns Regarding the Proposed Topsfield Rail Trails Project asked to address the Board. Mr. Morgan reminded the Board that he had made a presentation to them on July 9, 2007 and that he would like to add to that presentation a few additional comments regarding the proposed Topsfield Rail Trail. He suggested the Selectmen view two web sites, the towns of Sudbury and Weston. It was noted that they give a pro and con approach to Rail Trails projects in their towns. Mr. Morgan stated that in his opinion, there is a continued problem regarding the openness of the Rail Trail Committee; he does not believe that their email address is secure and they are inconsistent with meeting dates. Mr. Morgan asked if anything was being done about the removal of rail ties and the hazardous waste at the Grove Street construction site presently underway. Selectman Clark stated that it is on private property and not the jurisdiction of the Town or the Rail Trail Committee. Mr. Morgan said that he had phoned MA DEP to report the possible contamination of the surrounding ground and air. Mr. Morgan asked if a plan for the Rail Trails had been submitted to the Board. Selectman Clark announced that the Rail Trail Committee has asked to address the Board at its October 1, 2007 meeting to answer the concerns of the Coalition and a letter from Mr. De'Amario dated July 30, 2007. Mr. Morgan asked if the shoulder of the trail is to be developed; he is concerned that it will not appear manicured. Selectman Gandt stated that the trail would only be about 12 feet wide, and that possibly one of the local Garden Clubs would want to spruce up the shoulders in some areas. Otherwise, it would be no different than it is today. Mr. Morgan talked about the proximity of the trail to Proctor School and the playground and the difficulties for safety that he believes this would cause, as well as parking needs. Joe Geller, Chairman of the Rail Trail

Committee joined the meeting stating that the committee has always followed the “Open Meeting Law”. All minutes have been approved and are available at the Selectmen’s Office. Furthermore, meetings are posted according to the Open Meeting Law. He stated that the plans for the trail around the Proctor School area have been reviewed by the Police Chief, the Highway Commissioners and Highway Department and is presently being reviewed by the Elementary School Committee. Selectman Clark asked, as a courtesy, if Mr. Geller would telephone Mr. Morgan prior to the next meeting of the Rail Trail Committee. Mr. Geller agreed to do this. Chairman McArdle closed the comments saying that the Rail Trail Committee would be put on the October 1, 2007 agenda.

### **APPOINTMENTS:**

**8:04** – Phil Knowles, Chairman Water Commissioners and Greg Krom, Superintendent Water Department addressed the Board in reference to the DEP’s water withdrawal permit for Topsfield. Mr. Krom summarized the environment as it is today:

- The water ban that is presently in effect limits outside water use to hand held hoses and buckets between 5PM and 9AM.
- The water withdrawal permit allows each citizen 65 gallons of water each day; there is no modification from summer to winter use.
- The State is requesting the Town to proceed with changing the Town ByLaw to include regulating private well users as they draw on the same water basin. The State has said they will take punitive action if the Town doesn’t follow this mandate.
- The Water Department is sending out violation notices to those households that are not in compliance with the ban and is issuing fines when notices are ignored. Fines can go as high as \$300 a day.
- If a business’s core livelihood is dependent on water, such as a car wash or golf course, it was noted that they are exempt from the water ban.
- Masconomet High School’s watering of their fields was discussed. In accordance with the water withdrawal permit, would be permitted to use underground systems, but not rain cannons. However, the Water Commissioners have prohibited all irrigation of public fields and parks.
- It was stated that we do have the water resources necessary to serve the residents of Topsfield; we are using about 1/3 the capacity of the Town’s wells.

**8:20** – Hearing Continued for Sign Permit at 414 Boston St. Joseph Bochetti, son and co-owner of the property and Bob Varney of Topsfield Sign Shop presented a new drawing of the sign. Selectman Gandt pointed out that the sign will be supported on granite posts with the address on the posts, lighting is to remain as it is today, in the ground and the location of the sign will be as noted on the diagram. Selectman Carlson made a motion to approve the sign for 414 Boston St as shown in the diagram presented, Selectman Gandt seconded; so voted: 4-0.

### **OLD BUSINESS:**

**Re-Naming of the Ball Field:** Letters had been received, one from the School Committee stating their understanding of the historical naming of the field at Proctor School. Chairman McArdle clarified that the Board had previously voted on the renaming of the large diamond baseball field at Proctor School, not the entire field. Selectman Clark had spoken with the Park & Cemetery and it was felt that naming the diamond George Lucy Ballfield at Proctor Field would be a nice compromise. Karen Dow, Chairman of the School Committee was invited to address the Board. She stated that Dr. Creeden and she had investigated the history of the naming and that the full

School Committee had not yet met to vote on the issue. Chairman McArdle suggested to Mrs. Dow that she advise the Committee of the Board's vote. Karen Dow will inform the Board on the School Committee's decision on this matter.

Conservation Restriction for 120 High St. Open Space: Chairman McArdle stated that Walter Harmer, Chairman of the Conservation Commission was scheduled come to the Oct. 1, 2007 meeting to answer any questions. At Selectman Clark's request, the Chairman rescheduled the date to the October 9 meeting when Selectman Clark would be present.

**NEW BUSINESS:**

Sunday Public Entertainment License: Selectman Gandt made a motion to approve the Fiesta Shows' license applications for their Sunday, September 30 and October 7, 2007 "Amusement Rides" and "Games at the Fair", Selectman Clark seconded; so voted: 4-0.

United Nations Day: Letter requesting a proclamation be issued for October 24<sup>th</sup>. Selectman Carlson made a motion to table the decision, Selectman Gandt seconded; so voted: 3-1. Selectman Clark voted no.

Essex National Heritage Commission Partnership Grant: Mike De'Amario of 43 Grove St came forward to request the Board to not sign the Grant application. He would also like the Board to appoint some new members to the Rail Trail Committee. Selectman Clark noted that abutters would not be permitted to join the Committee due to the Conflict of Interest State Law. However, if the group had an interested party who is not an abutter and who would speak on their behalf, that would be acceptable. There was a discussion of how information was disseminated to the Town residents regarding the Rail Trail Project. Selectman Gandt noted that the Committee participated at the Strawberry Festival and the Mainstreet Foundation's Expo, published a website ([www.topsfieldtrail.org](http://www.topsfieldtrail.org)) and created and printed brochures which are available at Town Hall. Cathy Morgan of 22 Washington Street addressed the Board regarding the cost of the project citing a \$800,000 price tag. Selectmen Gandt and Clark attempted to clarify that these funds are available to all participating Towns, not just Topsfield. Becky Stump of 18 Valley Road spoke requesting the Board not to sign the Grant because a design plan has not been submitted. Selectman Clark stated that applying for the Grant does not necessarily mean that the Town has to spend the funds if they are received. Mrs. Stump continued to inform the Board of her research regarding the easement behind her property. Selectman Clark challenged her to prove to the Board that the easement in question is "her" property. Selectman Gandt made a motion to approve the request for the Essex National Heritage Commission Partnership Grant in the amount of \$2,000 to be submitted for Phase I of the Topsfield Linear Common recreations trail between Washington Street and Main Street with signature of the Chairman only, Selectman Clark seconded; so voted: 4-0.

Willowdale Innholders & Common Victualler License: An application was received from Briar Forsythe-Fandetti for a Common Victualler license. Selectman Gandt read a letter submitted from the Board of Health asking to table the vote on this matter to a future date when the Board of Health and other inspector issues have been resolved. Chairman McArdle made note of the fact that there were outstanding taxes owed to the Town as well. Selectman Clark seconded; so voted: 4-0.

Executive Office of Elder Affairs Request for Increase in Grant Money: Selectman Gandt made a motion to approve an amendment to the COA formula grant in the amount of \$242.00 due to a formula change resulting in an increase of funds to the Town, Selectman Carlson seconded; so voted: 4-0.

Library Basement Wall Repair: Selectman Gandt made a motion to accept the bid proposal from Atlas Contracting Services Inc, of Canton, MA in the amount of \$7,850 to make the repairs to

the basement walls as part of the FEMA settlement from the May Floods of 2006, Selectman Clark seconded; so voted 4-0.

Library Facility Committee: A letter was received from the Library Trustees nominating 3 members to a Facility Committee to oversee the HVAC project. Selectman Clark noted that a motion is not necessary as this falls under the Trustees' jurisdiction to approve the appointments of their own subcommittee, Selectman Carlson seconded; so voted: 4-0.

New Member for the Conservation Commission: Dick Gandt has submitted a letter of interest to be appointed to the Commission. However, he announced that he would like to see if other people would step forward from the Town. Selectman Clark stated his concern with two Select Board members on this Commission. Decision for this appointment will be held for a few weeks.

### **Town Administrator's Report:**

Please see attached report.

### **Correspondence & Reports**

#### **Correspondence:**

- Flooding with New Septic: Letter received from Nancy Hood of 10 Forrest St requesting the Town to solve a flooding problem.
- Free Cable Service: Comcast sent a letter notifying the Board of the over \$4,200 value they are providing free to the schools and library in Topsfield.
- Independent Living Center Annual Meeting & Roast Benefit: October 17, 2007 there will be an annual meeting with Ted Speliotis being roasted to begin at 5:30PM at the Salem Waterfront Hotel & Suites, Pickering Wharf, Salem MA with a silent auction.
- Invitation for Support: Letter received from Watertown Council has withdrawn from "No Place for Hate" status. There is a meeting on September 26, 2007 to discuss this issue.
- National Flood Insurance: Letter was received from DCR reviewing a meeting between Building Inspector Glenn Clohery & Eric Carlson of Flood Hazard Management Program to discuss the Town's floodplain management procedures.
- Department of Telecommunications & Energy Public Hearing: Hearing date is October 10, 2007 to be held at One South Station, 2<sup>nd</sup> Floor, Boston MA to receive comments on KeySpan's Energy efficiency compliance filing with the Department of Public Utilities.
- Open Meeting Law as it relates to Meeting Minutes: Town Clerk has provided a bulletin explaining that questions relating to minutes, records retention and Public Record Law should be directed to the Public Records Division in Boston.

#### **Reports:**

Board of Assessors: Minutes were submitted for August 3, 2007.

Conservation Commission: Monthly Report for August submitted, DoA for 21 Kinsman Lane, OoC for 20 Aaron Drive submitted.

Fire Department: Monthly Report for August submitted.

Planning Board: Minutes were submitted for August 7 and 21, 2007.

School Committee: Minutes were submitted for August 23, 2007.

Open Space Committee: Minutes were submitted for June 4, 2007.

North Shore Vocational School: Minutes were submitted for June 14, 2007 and agenda for September 13, 2007.

**Warrants:** The Selectmen signed and approved warrants in the amount of \$ **575,075.71**. The breakdown is as follows:

Warrant #FY08:	
023T	\$ 76,886.85
024	\$498,188.86

**Executive Session:** At 9:44PM, Chairman entertained a motion to go into executive session to discuss the Town v. Bernstein lawsuit, Fire Chief Contract, the Police union contract and the Dispatcher's union contract; Selectman Clark seconded motion. A yes vote was recorded for Selectmen Carlson, Selectmen Gandt, Selectmen Clark and Chairman McArdle. The Board would not return to regular session. Virginia Wilder and Donna Rich were present also.

Respectfully submitted,

Donna Rich, Secretary  
Selectmen's Office

*Approved as written at the October 1 , 2007 Board of Selectmen meeting.*